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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,062	07/30/2006	Friedrich Magerl	MAGERL1	4489
1444 7590 08/21/2009 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER MERENE, JAN CHRISTOP L	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 08/21/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Supplemental
Notice of Allowability**

Application No.

10/554,062

Examiner

JAN CHRISTOPHER MERENE

Applicant(s)

MAGERL ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to April 28, 2009.
2. ☒ The allowed claim(s) is/are 3,4,6,8 and 11-20.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Jan Christopher Merene/
Examiner, Art Unit 3733

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Sheridan Neimark on July 8, 2009.

The application has been amended as follows:

Regarding Claim 18, delete the crossed out words and insert the underlined words as follows:

Claim 18: A device for spondylodesis for anterior intersomatic spondylodesis of the cervical spine, ~~with comprising: at least one an~~ an intervertebral implant with at least two hemispherical depressions, that where the intervertebral implant functions as a pressure- absorbing spacer which is adapted to stabilizes the spondylodesis and ensures that a solid osseous bridge forms between adjacent vertebral bodies ~~and with at least plate which is to be connected to the intervertebral implant and to an adjacent vertebra,~~ wherein the intervertebral implant is formed as a unit having only a single recess therein that extends through the implant to open on opposite sides of the implant to an outside of the implant and adapted to face along the longitudinal axis of the spinal column when implanted;

wherein the intervertebral implant is connected to at least two plates;

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wherein the intervertebral implant extends transversely to the at least two plates which are arranged at a distance from one another, one end of each of the ~~two~~ plates form a fixable joint together with the intervertebral implant;

wherein a second intervertebral implant is provided;

wherein one of the plates is L-shaped or I-shaped and adapted to connect with an adjacent vertebra and the other plate is Z-shaped and connects with said second intervertebral implant;

wherein a third plate is connected to said second intervertebral implant, wherein said third plate is L-shaped or I-shaped,

wherein each of the ~~at least two~~ plates have, at least at one end, a hemispherical joint part formed as a unit, which protrudes transversely down from ~~said two~~ each plates; ~~and~~

wherein said joint part of each plate has a passage for a locking screw and engages in a one of the hemispherical depressions of their respective intervertebral implant to form a ball joint.

Cancel **Claim 2**.

Regarding Claim 3, delete the crossed out words and insert the underlined words as follows:

Claim 3: The device as claimed in claim 18, characterized in that at least one plate, in a central area extending transversely with respect to the longitudinal axis of the

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spinal column, has at least one passage for a bone screw, so that this plate can be adapted to ~~connected~~ to a vertebra.

Cancel **Claim 7**.

Cancel **Claim 9**.

Cancel **Claim 10**.

Regarding Claim 12, delete the crossed out words and insert the underlined words as follows:

Claim 12: The device as claimed in claim 18, characterized in that ~~it~~ the device is provided for spondylodesis of the cervical spine.

Regarding **Claim 20**, delete the crossed out words and insert the underlined words as follows:

Claim 20: The device as claimed in claim 19, wherein the opposite sides of the implant is ~~provided~~ capable to respectively engage adjacent vertebral bodies and are at least partially flat.

2. The following is an examiner's statement of reasons for allowance: Claim 18 has been indicated allowable because the prior art of record fails to disclose either singly or in combination a device with two intervertebral implants that are connected together by a z-shaped plate, wherein each of the implants are also connected to another L or I

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shaped, wherein the plates have a protruding hemispherical joint part which connects with the implants that have hemispherical depressions to form a ball joint.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and relied upon is considered pertinent to the applicant's disclosure. See PTO-892 for art cited of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAN CHRISTOPHER MERENE whose telephone number is (571)270-5032. The examiner can normally be reached on 8 am - 6pm Mon-Thurs, alt Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jan Christopher Merene/
Examiner, Art Unit 3733

/Corrine M McDermott/
Supervisory Patent Examiner, Art Unit 3738